

GRAND JURY HISTORY AND FUNCTION

The first formal Grand Jury was established in Massachusetts in 1635. By 1683, Grand Juries in some form were established in all of the colonies. The first cases considered by the Grand jury were murder, robbery and wife beating. Cases in Pennsylvania included Grand Jury indictments for: holding a disorderly meeting in 1651, witchcraft in 1683 and for other crimes in 1685. Various public evils were added to the range of investigations by the Grand Jury in 1685, and began to set a precedent for future Grand Jury interests.

The original United States Constitution which was written in 1787 did not contain a reference to the Grand Jury, but the Fifth Amendment provided the remedy for the omission. It states: "No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger..."

The fourteenth amendment in 1868 made most of the provisions of the Bill of Rights applicable to the States. Some of the states have interpreted this amendment to mean that prosecution of crimes no longer mandated a Grand Jury indictment. A study done by Deborah Day Emerson in the year 1984, shows that four states require a Grand Jury indictment for all crimes, 14 states and the District of Columbia require indictments for all felonies, six states mandate Grand Jury indictments for capital crimes only, 25 states (including California) make indictments optional. In a single state, Pennsylvania, the Grand Jury lacks the power to indict.